

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: C.R. BARD, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL 2187

FRANCES M. CLIFFORD,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-06621

C. R. BARD, INC., and
TISSUE SCIENCE LABORATORIES LIMITED,

Defendants.

MEMORANDUM OPINION AND ORDER

On November 15, 2018, plaintiff's counsel filed a Suggestion of Death noting the death of plaintiff Frances M. Clifford during the pendency of this action [ECF No. 15]. Defendants filed a Motion for Dismissal without Prejudice requesting dismissal of this case because the deceased plaintiff has not been substituted [ECF No. 16], and counsel for plaintiff responded [ECF No. 17].

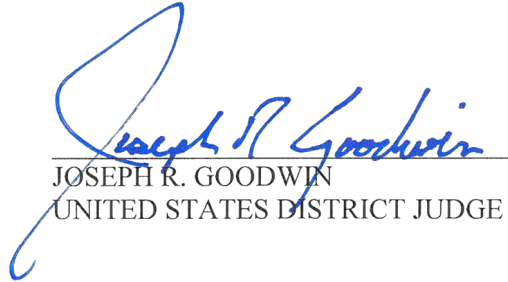
Pretrial Order ("PTO") # 289 filed in *In re: C. R. Bard, Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, 2:10-md-2187 ("Bard 2187") [ECF No. 6195] outlines the procedures the court requires to either substitute a deceased party pursuant to Federal Rule of Civil Procedure 25(a), or to dismiss the deceased party from the civil action because of a failure to properly serve and substitute the deceased party.

The court **FINDS** that the Suggestion of Death did not comply with Rule 25(a) as it was never properly served upon parties, non-parties or a personal representative of the estate. Regardless, the time period as set forth in PTO # 289 to substitute a party has since passed.

Therefore, the court **ORDERS** that this case is **DISMISSED** without prejudice and **STRICKEN** from the docket of this court. Any pending motions are **DENIED as moot**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 16, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE